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Subject: Waiver of 6532(b) Limitations Period

You requested our view regarding a taxpayer's ability to waive the general limitations period under I.R.C. § 6532(b) on suits brought by the Service to recover erroneous refunds. Although there is no express statutory authorization for such waivers, there is case law available that provides that the execution of a waiver is valid even in the absence of statutory authorization. *United States v. National Steel Corp.*, 75 F.3d 1146 (7th Cir. 1996)(applying a waiver made by the taxpayer in a closing agreement with the Service to extend the general two year statute of limitations).

In later guidance the Service interpreted this opinion as correct and controlling. See CCA 199914033. Additionally, in SCA 200014033 the Service offered guidance on when such waivers should be requested. Waivers should be requested only in limited circumstances, such as where a taxpayer agrees to pay the erroneous refund but needs additional time. Furthermore, it appears to be unnecessary to go through the formality of entering into a closing agreement with the taxpayer in order to have an effective waiver. In a recent case, the court found an "Agreement to Extend the Time to Bring Suit to Recover Erroneous Refund" effective to waive the general limitations period under section 6532(b). *United States v. Goertz*, No. A-09-CV-179 LY, 2009 WL 1664085 (W.D. Tex. June 11, 2009).

In conclusion, given that the taxpayer has agreed to return the erroneous refund and we are operating on a limited time frame, this appears to be one of the limited circumstances under which a request for waiver is indeed appropriate.